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of any succeeding breach of such term or provision or condition.

§ 107.1920 Licensee's application for exemption from a regulation in this part 107.

You may file an application in writing with SBA to have a proposed action exempted from any procedural or substantive requirement, restriction, or prohibition to which it is subject under this part, unless the provision is mandated by the Act. SBA may grant an exemption for such applicant, conditionally or unconditionally, provided the exemption would not be contrary to the purposes of the Act. Your application must be accompanied by supporting evidence which demonstrates to SBA's satisfaction that:

(a) The proposed action is fair and equitable; and

(b) The exemption requested is reasonably calculated to advance the best interests of the SBIC program in a manner consonant with the policy objectives of the Act and the regulations in this part.

§ 107.1930 Effect of changes in this part 107 on transactions previously consummated.

The legality of a transaction covered by the regulations in this part is governed by the regulations in this part in effect at the time the transaction was consummated, regardless of later changes. Nothing in this part bars SBA enforcement action with respect to any transaction consummated in violation of provisions applicable at the time, but no longer in effect.

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Subpart A—Introduction to Part 108

§ 108.10 Description of the New Markets Venture Capital Program.

The New Markets Venture Capital ("NMVC") Program is a developmental venture capital program for the purpose of promoting economic development and the creation of wealth and

job opportunities in low-income geographic areas and among individuals living in such areas. SBA selects and then enters into participation agreements with selected newly formed venture capital companies, and provides leverage in the form of debenture guarantees to such companies to allow them to make equity capital investments in smaller enterprises located in low-income geographic areas. SBA also awards grants to such companies and to Specialized Small Business Investment Companies so that they can provide operational assistance to such smaller enterprises in connection with such investments.

§ 108.20 Legal basis and applicability of this part 108.

The regulations in this part implement Part B of Title III of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.). All NMVC Companies must comply with all applicable SBA regulations, accounting guidelines and valuation guidelines for NMVC Companies, available from SBA.

§ 108.30 Amendments to Act and regulations.

A NMVC Company is subject to all provisions of the Act and parts 108 and 112 of title 13 of the Code of Federal Regulations.

§ 108.40 How to read this part 108.

(a) *Center headings.* All references in this part to SBA forms, and instructions for their preparation, are to the current issue of such forms (available from Investment Division, SBA). Center headings are descriptive and are used for convenience only. They have no regulatory effect.

(b) *Capitalizing defined terms.* Terms defined in § 108.50 have initial capitalization in this part 108.

(c) *“You.”* The pronoun “you” as used in this part 108 means a NMVC Company unless otherwise noted.

**Subpart B—Definition of Terms
Used in This Part 108**

§ 108.50 Definition of terms.

The following definitions apply to this part 108:

Act means the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

Affiliate or *Affiliates* has the meaning set forth in § 121.103 of this chapter.

Applicant means any entity submitting an application to SBA for designation as a NMVC Company under this part.

Articles mean articles of incorporation or charter for a Corporate NMVC Company, the partnership agreement or certificate for a Partnership NMVC Company, and the operating agreement or other organizational documents for a LLC NMVC Company.

Assistance or *Assisted* means Financing of or management services rendered to a Small Business by or through a NMVC Company pursuant to the Act and this part.

Associate of a NMVC Company means any of the following:

(1)(i) An officer, director, employee or agent of a Corporate NMVC Company;

(ii) A Control Person, employee or agent of a Partnership NMVC Company;

(iii) A managing member of a LLC NMVC Company;

(iv) An Investment Adviser/Manager of any NMVC Company, including any Person who contracts with a Control Person of a Partnership NMVC Company to be the Investment Adviser/Manager of such NMVC Company; or

(v) Any Person regularly serving a NMVC Company on retainer in the capacity of attorney at law.

(2) Any Person who owns or controls, or who has entered into an agreement to own or control, directly or indirectly, at least 10 percent of any class of stock of a Corporate NMVC Company or 10 percent of the membership interests of an LLC NMVC Company, or a limited partner's interest of at least 10 percent of the partnership capital of a Partnership NMVC Company. However, neither a limited partner in a Partnership NMVC Company nor a non-managing member in an LLC NMVC Company is considered an Associate if such Person is an entity Institutional Investor whose investment in